

**HAROLD, SALANT, STRASSFIELD & ROTBARD, LLP**

ATTORNEYS AND COUNSELORS AT LAW

81 MAIN STREET

SUITE 205

WHITE PLAINS, NEW YORK 10601

CHRISTOPHER P. HAROLD  
ELIZABETH G. HAROLD  
GREGORY A. SALANT  
RICHARD J. STRASSFIELD  
JEROLD C. ROTBARD  
DONNA E. ABRAMS

TELEPHONE: (914) 683-2500  
FAX: (914) 683-1279  
www.haroldsalant.com

OF COUNSEL  
LEONARD I. SPIELBERG  
RACHEL J. FILASTO

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #: \_\_\_\_\_  
DATE FILED: 4/14/2023

**MEMORANDUM ENDORSED**

April 14, 2022

**VIA ECF**

Honorable Gregory H. Woods  
United States District Court, SDNY  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007

Re: **Zivkovic v. Laura Christy LLC, et al, 17 CV  
553 (GHW) (GWG)**

Dear Judge Woods,

We represent Defendant, Laura Christy Midtown, LLC. in the above and write on behalf of all Defendants.

We remind the Court that at the close of Plaintiffs' case, we moved the Court to de-certify the Plaintiff class. Our motion at that time was grounded, *inter alia*, on Plaintiffs' failure in its case, to cure the Courts' basis for denying summary judgment as set forth in the Court's decision dated October 18, 2019 at pages 11-12. Further our said motion relied upon the holding of the Second Circuit Court of Appeals in *Jin v. Shanghai Original, Inc.*, 990 F.3d 251. Plaintiffs called as witnesses only 4 members of the almost 400 person class, did not procure expert testimony to establish damages and failed to adduce representative testimony. We submit that the said motion merits consideration and a decision by the Court.

The motion is denied. As the Court noted at the close of the case: "Counsel pointed me to the Second Circuit's decision in the case that was litigated by the Troy law firm. This was not that case." Tr. 1191:5-7. To the extent not previously clear, this motion is denied. Counsel's oral

motion was not persuasive. The Court observes that the parties agreed upon a method for calculating the damages in their March 17, 2022 letter to the Court. Dkt. No. 274. That stipulated methodology did not require expert testimony. The jury was entitled to, and did, find liability on a class wide basis, based on the evidence, which included the applicable time records, and the agreed-upon jury instructions. The testimonial evidence supporting the jury's decision included not only the testimony of witnesses that the jury determined to be representative based on the agreed-upon jury instructions, but the testimony of witnesses employed by Defendants regarding the Defendants' improper pay practices. Defendant Midtown's motion is denied.

The Clerk of Court is directed to terminate the motion pending at Dkt. No. 285.

SO ORDERED.

Dated: April 14, 2022  
New York, New York

  
GREGORY H. WOODS  
United States District Judge